IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SEVENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

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WRIT PETITION NO : 4066 of 2004

Between:

P.V.Ramaiah, S/o.Sri Balaramaiah

R/o.17/290, Upstairs, Hundekar Street, Guntakal
Anantapur District.

..... PETITIONER

AND

1 Andhra Pradesh State Road Transport Corporations,

rep.by its Chairman and Managing Director,

Musheerabad, Hyderabad.
2 The Regional Manager, APSRTC,

Anantapur Region, Anantapur
3 The Depot Manager, APSRTC Guntakal Depot,

Guntakal, Anantapur district.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or writ particularly one in the nature of writ of Mandamus or any other appropriate writ (i) declaring the action of the respondents in not regularizing the services of the petitioner in the cadre of Attendar in Anantapur region is illegal and arbitrary (ii) declare the proceedings No.P4/255(27)/2003-RM-A dated 10.2.2004 directing the petitioner to submit willingness for absorption as a conductor is illegal and arbitrary (iii) declare the proceedings No.P4/255(27)/2003-RM-A dated 28.2.2004 directing the Depot Manager to refer the petitioner for

medical fit examination to assess the suitability of the petitioner to the post of Conductor Grade-II is illegal and arbitrary and consequently direct the respondent to regularize the services of the petitioner in the cadre of Attendar from the date of initial appointment with all consequential benefits.

Counsel for the Petitioner: MR.G.VIDYASAGAR

Counsel for the Respondents1 to 3 : MR.P.VINAYAKA SWAMY

SC for APSRTC

The Court made the following:

ORDER:

The petitioner was appointed as Attender in APSRTC under Regulation 17 of A.P.S.R.T.C. Employees' (Recruitment) Regulations 1966, by the proceedings of the Senior Manager (Personnel), Bhagyanagar Region, vide order No.P-14/145(46)/92-BR, dated 18-11-1992 in the time scale of of Rs.875-25-1050-35-1400-40-1560/-. It is stated that subsequently he was transferred to Ananthapur Division at his request on the loss of seniority. On his reporting to duty, he was posted in Tadipatri Depot by the Divisional Manager, Ananthapur, vide order dated 04-01-1993. Thereafter, he was transferred to Guntakal Depot by order dated 03-07-1996 and presently he is working in Guntakal depot.

The learned counsel for the petitioner submits that though the petitioner is entitled to be regularized in the post of Attendar, the respondents are not regularizing his services. So, he made a representation dated 17-03-2003 before the respondents as there are 12 sanctioned posts of Conductor and 5 Attendar in Ananthapur Division. Pursuant to the said representation, the second respondent, instead of considering the case of the petitioner for regularizing his services as Attendar, issued the impugned proceedings No.P4/255(27)/2003-RM-A, dated 10-02-2004, which reads as follows:

> "Your representation for regularization of temporary services in the cadre of Attendar has been examined in the light of the instructions issued vide ED(A)/Hyd., Lr.No.D5/1256/91-PO-I, dated 13-09-1994, wherein it was instructed to absorb all qualified and eligible Attendars/Sweepers as Conductors/Shramiks.

> Hence, you are directed to submit your willingness for absorption as Conductor together with educational certificate within a week from the date of receipt of this letter, so as to take further course of action on your representation."

The learned counsel for the petitioner further submits that, in fact, the petitioner is not qualified to hold the post of Conductor, but is qualified to hold only the post of Attendar and therefore, he cannot be compelled to submit his willingness for absorption to the post of Conductor.

The learned counsel for the respondents submits that subsequent to the passing of the said order, the petitioner made a representation dated 13-02-2004 stating that he is not willing to be absorbed as conductor and requested to regularize his services in the category of Attendar, but the said representation was not accepted.

No reasons have been assigned as to why the petitioner is not entitled for regularizing his services in the post of Attendar. Admittedly, the petitioner has been working for the last more than 12 years as Attendar and the time scale was also given attached to the post of Attendar. Therefore, I am of the view that the decision on the part of the respondents in not regularizing the petitioner's services as Attendar is not justified, more particularly, when the posts of Attendar are available in the Ananthapur Division.

Accordingly, the impugned proceedings dated 10-02-2004 and 28-02-2004 are set aside and the Writ Petition is allowed as prayed for. No order as to costs.

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V. ESWARAIAH, J

27th August, 2004

Isn/Stp

To

1 The Chairman and Managing Director,

Andhra Pradesh State Road Transport Corporation,

Musheerabad, Hyderabad.
2 The Regional Manager, APSRTC,

Anantapur Region, Anantapur
3 The Depot Manager, APSRTC Guntakal Depot,

Guntakal, Anantapur district.

4. Two CD copies.